

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Sudeen G. Kelly.

Wisconsin Power & Light Company

Docket No. ER04-1135-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued April 27, 2006)

1. On March 10, 2006, Wisconsin Power & Light Company (WPL) filed a settlement agreement that resolves all the issues related to proposed changes in WPL's wholesale tariffs, including issues related to WPL's sale of its interest in the Kewaunee Nuclear Power Plant (Kewaunee), set for hearing and settlement procedures in the above captioned docket.¹
2. On March 30, 2006, the Commission Trial Staff filed comments in support of the settlement. No other Comments were filed. The presiding judge certified the settlement agreement to the Commission as uncontested on April 5, 2006.²
3. Refunds and adjustments shall be made pursuant to the settlement. The Commission authorizes the Trustee for the Kewaunee Decommissioning Trust to take any and all steps to implement the decommissioning refund described in the settlement agreement, including termination of that trust.
4. The subject settlement is in the public interest and is hereby approved. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.
5. The tariff designations submitted with the Settlement Agreement, however, are not in compliance with *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000). Accordingly, WPL is directed to file corrected designations in compliance with Order No. 614 within 30 days from the date of this order.

¹ *Wisconsin Power & Light Co.*, 109 FERC ¶ 61,130 (2004).

² *Wisconsin Power & Light Co.*, 115 FERC ¶ 63,001 (2006).

6. This letter terminates Docket No. ER04-1135-000. A new subdocket will be assigned upon the receipt of the required compliance filing.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

(S E A L)

Magalie R. Salas,
Secretary.

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KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it accepts for filing a settlement with an explanatory statement that provides, in relevant part, that the standard of review for any change proposed by a non-party or the Commission acting *sua sponte*, will be the ‘public interest’ standard under the Mobile-Sierra Doctrine.

Suede G. Kelly